IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2009 OF 2005

Subhash Dinkar Deshpande ...Applicant

Versus

The State of Maharashtra & Anr. ...Respondents

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Mr. K.G. Mhatre i/b Doijode Phatarphekar & Associates, Advocate for Applicant

Mr. T.R. Yadav i/b M/s. K.S. Bapat, Advocate for Respondent No.3.

Mr. S.R. Shinde, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 26TH JULY, 2005

P. C.:-

1. Heard the learned advocate for the applicant i.e. original accused, the learned advocate for the respondent No.3 i.e. the widow of deceased Pradeep Dattatraya Jadhav who was the workman who died in an accident and the learned A.P.P. for the State.

2. The applicant has prayed for quashing of process issued against him under Section 32(c) of the Factories Act, 1948. The said process was issued by the learned Metropolitan Magistrate, 29th Court, Dadar, Mumbai in Criminal Complaint No. 73/SF/2001.

3. The applicant is the Manager of M/s. Tata Power Company Limited. On 19.7.2001 at about 5.45 p.m. job of replacement of M.S. plates i.e. chequared plants of walkway platform of conveyor No.21-B, located in coal yard, was going on. The said work was going on since 14.7.2001. Deceased workman Pradeep Dattatraya Jadhav was engaged in the job. Before fixing the said plates in the walkway the angle was to be cleaned to remove accumulated rust so that plate would be fixed. The deceased sat on the joint of angles on which plates were rested and was cleaning the angle corner. At that time nut bolts of angle came out through holes as due to rusting the size of hole become large. As nut bolt came out of the angle as it was displaced from its position, the deceased fell on the ground from height of about 13 meters. He was immediately taken to hospital where he was declared dead before admission. On account of this accident, complaint came to be filed.

4. The learned advocate for the respondent No.3 i.e. the widow of deceased Pradeep Jadhav has stated that all dues have been given to her. Moreover, the brother of deceased Pradeep Jadhav has been appointed on compassionate ground in permanent category. A copy of letter of above appointment is taken on record and marked ’X’ for identification. Moreover, Exh.‘G’ also gives the details of the payment made to

the legal heirs of the deceased. The learned advocate for the respondent wife has further stated that all dues have been received by her and she has no grievance against the applicant and the process against the applicant may be quashed.

5. The learned A.P.P. has submitted that in view of the fact that the widow i.e. respondent No.3 has been paid all her dues and that the appointment on compassionate basis has been given to her family member and the other facts and circumstances of this case, he has no objection to the said process being quashed.

6. In view of the above, Criminal Complaint No.73/SF/2001 and the proceedings relating thereto are quashed.

7. Application is disposed of.

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